

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

934Q0499

## HOUSE JUDICIARY ENGROSSED NO. **HB 1246** 2/13/2009

Introduced by: Representatives Gosch, Cutler, Hunt, and Schlekeway and Senators Hansen (Tom), Nesselhuf, Turbak Berry, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to service of garnishee  
2 summons, affidavit, and garnishment disclosure.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 21-18-11 be amended to read as follows:

5 21-18-11. Such garnishee summons, affidavit, and garnishment disclosure may be served  
6 by certified mail, return receipt requested, or personally by the sheriff of the county where any  
7 garnishee or defendant may be found, or by any other person not a party to the action. If, after  
8 reasonable diligence, service by certified mail or personal service by the sheriff is unsuccessful  
9 within the time period provided for in § 21-18-10, the plaintiff may file an affidavit stating that  
10 fact and may serve such garnishee summons, affidavit, and garnishment disclosure on the  
11 defendant by mailing a copy of the documents, together with a copy to the garnishee, to the  
12 defendant's last known address by registered mail. The service shall be made and the same  
13 returned, with proof of the service, to the person whose name is subscribed thereto, with  
14 reasonable diligence. The person subscribing such garnishee summons may, at his option, by



1 an endorsement thereon fix a time for the service thereof, and the service shall then be made  
2 accordingly. The garnishee may proceed by complying with either § 21-18-32 or § 21-18-33  
3 and, by such compliance, is exonerated from any further liability to any party to the  
4 garnishment.

5 Section 2. That § 21-18-10 be amended to read as follows:

6 21-18-10. The garnishee summons and affidavit shall also be served on the defendant to the  
7 action, either before or within thirty days after service on a garnishee, ~~except when~~ unless  
8 service of the summons in the action is made without the state or by publication. If the  
9 defendant appears in the action by attorney, such service may be made upon such attorney or  
10 upon the defendant. ~~Unless the garnishee summons is served on the defendant or the defendant's~~  
11 ~~attorney in accordance with the provisions of this section, the service on the garnishee is void~~  
12 ~~and of no effect from the beginning."~~